IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY EIGHTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 18998 of 2004

Between:

C.Yadaiah, Working Partner, M/s Balaji Bajrang Industries

(Rice Mills) Amangal Village &
Mandal, Mahabubnagar District.

..... PETITIONER

AND

1 District Collector, Mahabubnagar District at Mahabubnagar
2 Mandal Revenue Officer Amangal Mandal, Mahabubnagar District
3 Superintendent of Police (Intelligence), Hyderabad Rural,

Boorgula Rama Krishna Rao Buildings, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of Mandamus or any other appropriate writ declaring the action of the respondents in seizing the paddy bags(1250+ 1901) which are in the petitioner rice mill under the cover of Seizure panchanama date 15/09/2004, is arbitrary and illegal and direct the respondents to release the seized stock of paddy to the petitioner and grant such other relief as it deems fit in the circumstances of the case.

Counsel for the Petitioner: MR.V.VENKATARAMANA

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court made the following :

ORDER:

Heard learned counsel for the petitioner and learned Government Pleader for Civil Supplies appearing for respondents.

Though notice is served on the respondents, no counter affidavit has been filed on their behalf.

The petitioner claims to be a partnership firm conducting the business of running a Rice Mill at Amangal, Mahabubnagar District. It is stated that on 15-09-2004, the 3rd respondent surprised the petitioner's Rice Mill and under the cover of Panchanama, the respondents seized 3151 bags of paddy, which were lying in the Rice Mill, along with certain bags of rice alleged to have been shifted from the load of rice bags in Lorry No. AHH 3025.

On a perusal of the panchanama, the allegation appears that the stage-II Contractor of the Civil Supplies Department by name Sri. Lakshiminarayana was transporting rice bags in the lorry, which were meant for utilizing for 'Food for Work programme' and that the said lorry load of rice bags was diverted and some bags of rice were unloaded and kept in the petitioner's Rice Mill. In pursuance thereof, a crime was registered against the stage-II contractor, Sri Lakshminarayana, and also against the Rice Mill alleging that the diversion of the rice bags constituted an offence of cheating.

Now this writ petition is filed seeking a declaration that the action of the respondents in seizing the paddy bags, which were lying in the petitioner's Rice Mill, is arbitrary

and illegal.

The case of the petitioner is that even as per the recitals in the panchanama, the allegation is only about the diversion of lorry load of rice bags and some of the unloaded rice bags being stocked in the Rice Mill. There is no allegation about the paddy bags, which are kept inside the Rice Mill of the petitioner. Moreover, the paddy is not a controlled commodity under the Essential Commodities Act, and there is no requirement under any Control Order about the maintenance of the paddy and particulars of milling of paddy and conversion into rice/broken rice. Thus, according to the petitioner, the entire action of the respondents in effecting the impugned seizure is arbitrary and illegal.

It is relevant to note that by virtue of the notification dated 15-02-2002 issued by the Government of India and the corresponding Memo dated 27-03-2002 issued by the State Government, there are no restrictions as to stocking or movement of the paddy and rice in the State. It is also relevant to note that the Commissioner of Civil Supplies issued consequential proceedings dated 12-08-2002 stating that even where any rice miller is found to have indulged purchasing rice meant for 'Food for Work', the only course open is to initiate proceedings under the Code of Criminal Procedure.

This Court while considering an identical issue in ***SHEELA SRINIVAS Vs. DISTRICT COLLECTOR, KARIMNAGAR***, having taken into consideration the aforesaid orders issued by the Government of India and the State Government held that the seizure of paddy and rice on the allegation that the said stock meant for 'Food for Work programme' was diverted to the Mill of the petitioner therein, was unsustainable. It was also held that even assuming that the petitioner/miller therein has purchased or has come into possession of rice meant for 'Food for Work programme', the only action open is to initiate proceedings under the Code of Criminal Procedure.

In the case on hand, the seizure was apparently effected only on the allegation of diversion of rice meant for 'Food for Work programme'. Moreover, on the basis of the material on record, prima facie it appears that there is no allegation of violation of any statutory provision so far as the paddy is concerned.

In the circumstances, and following the ratio laid down by this Court in the SHEELA SRINIVAS's case, I am of the view that the impugned seizure so far as the paddy in

question is concerned, is unsustainable. Hence, the petitioner is entitled to release of 1250+1901 bags of paddy seized from the petitioner Rice Mill.

Accordingly, the writ petition is disposed of, with a direction to the respondents to release the paddy in question within one week from the date of receipt of a copy of this order. However, it is made clear that this order shall not preclude the respondents in any way to take appropriate proceedings against the petitioner under the Code of Criminal Procedure. No costs.

_____

28-10-2004

Note: Issue C.C in two days.

B/o.

vs

To

1 The District Collector, Mahabubnagar District at Mahabubnagar
2 The Mandal Revenue Officer Amangal Mandal, Mahabubnagar District.
3 The Superintendent of Police (Intelligence), Hyderabad Rural,

Boorgula Rama Krishna Rao Building, Hyderabad.

4 2CCs to the G.P for Civil Supplies, High Court Buildings, Hyderabad(O.U.T).

5 2CD copies